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Attorneys for Plaintiff
James Morse

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
--x Civil Docket No.: 17-cv-2574
JAMES MORSE,

Plaintiff,

-against-

COMPLAINT AND JURY DEMAND

HOUSING WORKS, INC., PATRICE WILLIAMS, CALEB TERRY, LENORA RIVERA, ERICA HUDSON, CHARLES KING, ANDREW COAMEY, and MICHAEL MANNAPE,

Defendants.
--x

Plaintiff James Morse, by and through his attorneys, Stagg, Terenzi, Confusione & Wabnik, LLP, hereby complains of Defendants upon information and belief as follows:

NATURE OF THE CASE

1. Plaintiff complains pursuant to Title VII of the Civil Rights Act of 1964, as codified at 42 U.S.C. §§ 2000e -20002-17, as amended ("Title VII"), the New York State Human Rights Law, New York State Executive Law § 296, *et seq.* ("NYSHRL"), and the New York City Human Rights Law ("NYCHRL"), and seeks damages to redress the injuries he suffered as a result of being sexually harassed, discriminated against on the basis of his gender, and retaliated against by his employer.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is proper under 42 U.S.C. § 2000e-5(f)(3), and 28 U.S.C. §§ 1331 and 1343.

3. The Court has supplemental jurisdiction over Plaintiff's claims brought under state law pursuant to 28 U.S.C. § 1367.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), as it is a judicial district where a substantial part of the events or omissions giving rise to the claims occurred.

PROCEDURAL PREREQUISITES

5. Plaintiff filed charges of discrimination upon which this Complaint is based with the Equal Employment Opportunities Commission (hereinafter "EEOC").

6. Plaintiff received a Notice of Right to Sue from the EEOC dated February 1, 2017, with respect to the herein charges of discrimination.

7. This action was commenced within ninety (90) days of receipt of said Notice.

PARTIES

8. At all times relevant, Plaintiff was and is a resident of the State of New York, County of Kings.

9. At all times relevant, Defendant Housing Works, Inc. ("Housing Works") was and is a domestic not-for profit incorporated under the laws of the State of New York.

10. At all times relevant, Housing Works owned, operated and/or maintained an office located at 57 Willoughby Street, Brooklyn, New York.

11. At all times relevant, Plaintiff was an "employee" of Housing Works within the meaning of Title VII, the NYSHRL and the NYCHRL, and thus afforded protection against sexual harassment and retaliation.

12. At all times relevant, Defendant Patrice Williams ("Williams") was and is employed by Housing Works, holding the position of Supervisor.

13. At all times relevant, Defendant Caleb Terry ("Terry") was and is employed by Housing Works, holding the position of Human Resources Director.

14. At all times relevant, Defendant Lenora Rivera ("Rivera") was and is employed by Housing Works, holding the position of Human Resources Administrator.

15. At all times relevant, Defendant Erica Hudson ("Hudson") was and is employed by Housing Works, holding the position of Williams' Manager.

16. At all times relevant, Defendant Charles King ("King") was and is employed by Housing Works, holding the position of Chief Executive Officer.

17. At all times relevant, Defendant Andrew Coamey ("Coamey") was and is employed by Housing Works, holding the position of Senior Vice President for Housing Capital Development-Facilities and Construction.

18. At all times relevant, Defendant Michael Mannape ("Mannape") was and is employed by Housing Works, holding the position of Human Resources Administrator. Defendants Housing Works, Williams, Terry, Rivera, Hudson, King, Coamey and Mannape are referred to collectively herein as "Defendants."

MATERIAL FACTS

19. In 2011, Plaintiff was hired by Housing Works and began working as a driver earning approximately $14 per hour. Williams was Plaintiff's supervisor.

20. Plaintiff received multiple accolades for his performance and dedication.

21. In 2012, Williams sexually harassed Plaintiff by repeatedly propositioning him. He caressed Plaintiff's buttocks, grabbed Plaintiff's waist from behind and jumped on Plaintiff's back.

22. Plaintiff rejected Williams's sexual advances and in response, Williams threatened to fire Plaintiff. Williams made Plaintiff work overtime for which Plaintiff was not paid, and did not allow Plaintiff Paid Time Off.

23. Embarrassed and ashamed by Williams' actions but nonetheless needing some assistance, Plaintiff submitted a formal complaint to Defendant Terry who was the Human Resources Director, setting forth in detail the treatment he was experiencing from Williams, including:

- Demanding that Plaintiff drop off boxes in East New York after Plaintiff had punched out and was going to take care of his sick daughter in the opposite direction;

- Demanding a doctor's note for Plaintiff's daughter when Plaintiff wanted to stay home one day to make sure she was well, even though the employee manual only requires a note for an absence exceeding 3 days;

- Making Plaintiff work later than all other drivers on Christmas Eve; and

- Subjecting Plaintiff to a "Final Written Corrective Action" for Plaintiff's leaving to take care of his daughter even though Williams knew she was sick and Plaintiff received his permission to leave in accordance with Housing Works' policy, and even though Plaintiff never received a prior verbal or written warning.

24. Plaintiff handed the complaint letter to Terry soon after Christmas 2012. Plaintiff also personally handed the complaint letter to Williams, Defendant Rivera, who was a Human Resources Administrator and Williams' Manager, Defendant Hudson. Plaintiff emailed the letter to some of these individuals as well. Not one of them responded.

25. On or about January 10, 2013, Plaintiff spoke with Rivera who said she would look into the matter and speak to Terry. Again, Plaintiff received no response.

26. On January 17, 2013, Plaintiff was in a car accident on the job. Plaintiff was out on Workers' Compensation leave for approximately 3 months. When Plaintiff was medically cleared, he went back ready and willing to work. Williams asked Plaintiff what he was doing there and said that Plaintiff did not have a job anymore.

27. Plaintiff went to Terry and Rivera in Human Resources who said his position was still showing as open and available. They sent Plaintiff home, saying they would investigate. Plaintiff came back each of the next 2 days and could not get an answer as to when he could start work. On the third day, he spoke with Terry, who said he did not know what was going on but he would put Plaintiff on a waiting list. Plaintiff again asked Terry about the issues raised in Plaintiff's December 2012 complaint letter and Terry said it was being investigated.

28. Plaintiff was unemployed for more than 3 months. Plaintiff was then called back to work in a new division under Susannah DePalo, Vice President of Housing Works' Adult Day Health Care Operations ("DePalo"). He was only making $12 per hour, even though he had been making $14 per hour. He took the reduction in pay because he needed a job to support his family.

29. Everything went well for almost 3 years. Plaintiff again received accolades from clients and staff. Then in July 2015, Williams came to see DePalo, saw Plaintiff there and said, "What are you doing here? I thought I got rid of you."

30. The next month, the division Plaintiff was working in merged with the Fleet Operations Department ("Fleet"), another department of Housing Works. Williams was the Director of Fleet and became Plaintiff's supervisor again.

31. As soon as Plaintiff was put back under Williams's supervision, he began to be targeted and harassed by Williams. Plaintiff was subjected to poor evaluations, write ups, and threats of termination.

32. By letter dated November 11, 2015, Plaintiff reached out to Hudson to again complain about the harassment Plaintiff was experiencing from Williams and ask for some type of assistance, and copied Rivera and DePalo on the letter. Plaintiff told them that he had been sexually harassed by Williams and that he had already lost his job once as a result. They said there was nothing they could do.

33. Plaintiff then complained to Defendant King, the Chief Executive Officer of Housing Works. King sent Plaintiff to Defendant Coamey, Senior Vice President for Housing Capital Development-Facilities and Construction, who runs Housing Works. Coamey also said there was nothing he could do. Plaintiff then wrote a complaint letter to Defendant Mannape, who was a Human Resources Administrator. Plaintiff received no answer.

34. On December 2, 2015, Plaintiff received an unsatisfactory performance–45-day probation from Williams (even though that same month Plaintiff received a staff appreciation certificate and a client appreciation certificate), accusing Plaintiff of using Housing Works' van for personal use because Plaintiff went to McDonald's after he picked up and dropped off clients. Since Plaintiff was allowed to have a one hour lunch, he went to Rivera and asked for a meeting with Mannape. Mannape met with Williams and Plaintiff, said that it was not personal use because Plaintiff was allowed to have a one hour lunch, and terminated the probation. At the meeting, Plaintiff asked Mannape to address the harassment detailed in his November 11, 2015 complaint letter. Mannape said it was still under investigation.

35. After the meeting, Williams was very angry and continued to harass Plaintiff on a daily basis. He questioned Plaintiff, criticized Plaintiff and berated Plaintiff in front of clients. Williams falsely accused Plaintiff of leaving his van unsecured. Plaintiff had never left the van unsecured. In fact, the incidents about which Williams complained occurred while Plaintiff was on vacation and not in possession of the van.

36. In June 2016, Plaintiff advised Williams that Plaintiff wanted to put in for 2 weeks' vacation in August 2016 to celebrate his wedding anniversary. Williams said, "If you take 2 weeks it will be permanent." However, Plaintiff was entitled to the 2 weeks so he put in a request with Human Resources. It was approved by Human Resources.

37. The Friday before Plaintiff was scheduled to take the anniversary vacation, Williams terminated him, claiming a "...pattern of policy violations and insubordination ..." despite not having any write-ups or complaints. Indeed, the termination notice stated that Plaintiff was being terminated for incidents occurring in 2015.

38. In addition, the termination notice falsely stated that Plaintiff had unauthorized trips to East New York. When clients were dropped off they had to stay a certain number of hours and there was no parking. If the other driver and Plaintiff loitered they would get tickets, and if they drove around it wasted gas. In June 2016, Williams had said to figure something out to reduce tickets. The other driver and Plaintiff decided to go back to Housing Works' facility in East New York to wait since it was not far and they could park there.

39. Housing Works was fully aware that Plaintiff and the other driver were returning to the facility. In fact, each van is equipped with GPS so Housing Works can monitor location, and Plaintiff's was checked by Williams daily. In addition, Plaintiff was never late picking up or

dropping off a client, and yet he had been taken off his daily schedule of 2 years and given varying assignments every day.

40. Pursuant to Housing Works' policies, Plaintiff was supposed to have a pre-hearing before termination, but he was not given one. To make matters worse, his final paycheck was missing $300 and he was not compensated for more than 300 hours of accrued Paid Time Off.

41. On September 12, 2016, Plaintiff appealed his termination in accordance with Housing Works' policy. Plaintiff never received a response to his request to appeal.

AS A FIRST CLAIM FOR RETALIATION UNDER TITLE VII
(Against Housing Works Only)

42. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this Complaint.

43. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-3(a) provides that it shall be unlawful employment practice for an employer: "(1) to . . . discriminate against any of his employees . . . because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subchapter."

44. Housing Works engaged in unlawful employment practices prohibited by 42 U.S.C. § 2000e, *et seq.*, by discriminating against Plaintiff with respect to the terms, conditions or privileges of employment because of his opposition to the unlawful employment practices of Defendant.

45. By engaging in the foregoing conduct, Defendants acted with malice and/or reckless disregard for Plaintiff's rights under Title VII.

46. As a result of Housing Works' retaliation, Plaintiff suffered severe emotional distress, loss of enjoyment of life, lost wages and other damages.

47. Plaintiff was damaged in an amount that exceeds any jurisdictional requirements of the Court, which will be determined at trial, and Plaintiff is entitled to punitive damages and attorneys' fees and costs.

AS A SECOND CLAIM FOR HOSTILE
AND ABUSIVE WORKING ENVIRONMENT
IN VIOLATION OF TITLE VII
(Against Housing Works Only)

48. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

49. The conduct of Defendants as alleged herein subjected Plaintiff to a hostile work environment in violation of Title VII.

50. By engaging in the foregoing conduct, Defendants acted with malice and/or with reckless disregard for Plaintiff's rights under Title VII.

51. As a result of the harassment and hostile working environment, Plaintiff suffered severe emotional distress, loss of enjoyment of life, lost wages and other damages.

52. Plaintiff was damaged in an amount that exceeds any jurisdictional requirements of the Court, which will be determined at trial, and Plaintiff is entitled to punitive damages and attorneys' fees and costs.

AS A THIRD CLAIM FOR RETALIATION
UNDER THE NEW YORK STATE EXECUTIVE LAW
(Against All Defendants)

53. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

54. New York State Executive Law § 296(7) provides that it shall be an unlawful discriminatory practice: "For any person engaged in any activity to which this section applies to retaliate or discriminate against any person because he has opposed any practices forbidden under this article."

55. Defendants engaged in an unlawful discriminatory practice by retaliating and otherwise discriminating against Plaintiff because of Plaintiff's opposition to the unlawful employment practices of Plaintiff's employer.

56. Defendants' conduct as alleged herein constitute violations of New York State Human Rights Law § 296.

57. By engaging in the foregoing conduct, Defendants acted with malice and/or reckless disregard for Plaintiff's rights under New York State Human Rights Law § 296.

58. As a result of Defendants' retaliation, Plaintiff suffered severe emotional distress, loss of enjoyment of life, lost wages and other damages.

AS A FOURTH CLAIM FOR AIDING AND ABETTING
DISCRIMINATION UNDER THE NEW YORK STATE EXECUTIVE LAW
(Against All Individual Defendants)

59. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

60. New York State Executive Law § 296(6) provides that it shall be unlawful discriminatory practice: "For any person to aid, abet, incite, compel, or coerce the doing of any acts forbidden under this article, or attempt to do so."

61. Housing Works, Williams, Terry, Rivera, Hudson, King, Coamey and Mannape violated New York State Executive Law §296(6) because their actions as described above aided and abetted the discriminatory, harassing and unlawful conduct committed against Plaintiff.

62. As a result of Defendants' actions, Plaintiff suffered severe emotional distress, loss of enjoyment of life, lost wages and other damages.

AS A FIFTH CLAIM FOR DISCRIMINATION UNDER CITY LAW
(As Against All Defendants)

63. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint as if set forth herein more fully at length.

64. Defendants discharged Plaintiff because Plaintiff complained about the improper sexual advances of Williams.

65. Defendants' actions amount to an unlawful discriminatory practice by discharging and otherwise discriminating against Plaintiff because of his sex.

66. As a result of Defendants' illegal actions, Plaintiff suffered and continues to suffer monetary losses, and has suffered and continues to suffer emotional distress, lost wages and other damages.

67. As a result of the above, Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all lower courts, and Plaintiff is entitled to punitive damages and attorneys' fees and costs.

AS A SIXTH CLAIM FOR DISCRIMINATION UNDER CITY LAW
(As Against All Defendants)

68. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint as if set forth herein more fully at length.

69. Williams harassed, embarrassed and humiliated Plaintiff because he refused Williams's sexual advances.

70. Based on Defendants' actions and comments, Defendants created a hostile working environment for Plaintiff in violation of the New York City Human Rights Law prohibiting discrimination and harassment based on sex.

71. As a result of the harassment and hostile working environment, Plaintiff suffered damages including severe emotional distress, loss of enjoyment of life, lost wages and other damages.

72. As a result of the above, Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all lower courts, and Plaintiff is entitled to punitive damages and attorneys' fees and costs.

AS A SEVENTH CAUSE OF ACTION
FOR AIDING AND ABETTING DISCRIMINATION UNDER THE CITY LAW
(As Against All Individual Defendants)

73. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint as if set forth herein more fully at length.

74. New York City Human Rights Law §8-107(6) provides that it shall be an unlawful discriminatory practice: "For any person to aid, abet, incite compel or coerce the doing of any acts forbidden under this article, or attempt to do so."

75. Williams, Terry, Rivera, Hudson, King, Coamey and Mannape violated the New York City Human Rights Law §8-107(6) because their actions as described above aided and abetted the discriminatory, harassing and unlawful conduct committed against Plaintiff.

76. As a result of the above, Plaintiff suffered damages including severe emotional distress, loss of enjoyment of life, lost wages and other damages.

77. As a result of the above, Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all lower courts, and Plaintiff is entitled to punitive damages and attorneys' fees and costs.

AS AN EIGHTH CLAIM
FOR RETALIATION UNDER THE CITY LAW
(Against All Defendants)

78. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

79. Defendants retaliated against Plaintiff by terminating his employment in retaliation for exercising and/or attempting to exercise his rights under the City Human Rights Law, namely his complaint letters wherein he complained of the harassing conduct from Williams.

80. As a result of Defendants' illegal actions, Plaintiff suffered and continues to suffer monetary losses, and has suffered and continues to suffer emotional distress, lost wages and other damages.

81. As a result of the above, Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all lower courts, and Plaintiff is entitled to punitive damages and attorneys' fees and costs.

AS A NINTH CLAIM
FOR VIOLATION OF THE FAIR LABOR STANDARDS ACT
(Against Housing Works Only)

82. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

83. Housing Works failed to pay Plaintiff for all hours worked as required under 29 U.S.C. § 206.

84. Housing Works also failed to pay Plaintiff for accrued Paid Time Off.

85. Housing Works' failure to pay Plaintiff was willful and it has not made a good faith effort to comply with the FLSA.

86. As a result of the unlawful acts of Housing Works, Plaintiff has been deprived of his rightful wages in amounts to be determined at trial. Plaintiff is entitled to recover such amounts, as well as liquidated damages, prejudgment interest, attorneys' fees, costs, and other compensation pursuant to 29 U.S.C. § 216(b).

AS A TENTH CLAIM FOR
VIOLATION OF THE NEW YORK LABOR LAW
(Against Housing Works Only)

87. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

88. Housing Works failed to pay Plaintiff for all hours worked as required under New York Labor Law ("NYLL") § 191.

89. Housing Works also failed to pay Plaintiff for accrued Paid Time Off.

90. Housing Works' failure to pay Plaintiff was willful and it has not made a good faith effort to comply with the NYLL.

91. As a result of the unlawful acts of Housing Works, Plaintiff has been deprived of his rightful wages in amounts to be determined at trial. Plaintiff is entitled to recover such amounts, as well as liquidated damages, prejudgment interest, attorneys' fees, expenses, and other compensation pursuant to the NYLL.

JURY DEMAND

92. Plaintiff requests a jury trial on all issues to be tried.

WHEREFORE, Plaintiff respectfully requests a judgment against the Defendants:

A. Declaring that Defendants engaged in unlawful employment practices prohibited by Title VII of the Civil Rights Act of 1964, the New York State Executive Law, and the New York City Human Rights Law in that Defendants retaliated against him for objecting to gender discrimination and sexual harassment;

B. Awarding damages to Plaintiff resulting from Defendants' unlawful retaliation and to otherwise make him whole for any losses suffered as a result of such unlawful employment practices;

C. Awarding Plaintiff compensatory damages for mental, emotional and physical injury, distress, pain and suffering and injury to his reputation in an amount to be proven;

D. Awarding Plaintiff punitive damages;

E. Awarding Plaintiff costs and liquidated damages;

F. Awarding Plaintiff attorneys' fees, and expenses incurred in the prosecution of this action; and

G. Awarding Plaintiff such other and further relief as the Court may deem equitable, just and proper to remedy Defendants' unlawful employment practices.

Dated: April 28, 2017

Stagg, Terenzi, Confusione & Wabnik, LLP

By: /s/Debra L. Wabnik

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